

**DECLARATION OF NICOLE CARLTON**  
**(supporting Defendants' Motion for Summary Judgment)**

I, Nicole Carlton, declare under penalty of perjury that the following is true and correct:

1. I am over the age of 18 and have personal knowledge of the facts included in this Declaration.
2. I am the Commissioner of the City of Cleveland's Division of Emergency Medical Services ("EMS"). In 2016, I became the actual Commissioner of EMS. Prior to when I became the actual Commissioner of EMS, and dating back to 2011, I was the Acting Commissioner of EMS.
3. EMS is part of the City of Cleveland's Department of Public Safety, which also includes the Division of Police and the Division of Fire.
4. Based on information obtained in the course of my job duties, it is my understanding that Tamir Rice was a 12-year old child shot by a City of Cleveland police officer on November 22, 2014, who died on November 23, 2014.
5. EMS personnel responded to the Tamir Rice scene, cared for Tamir Rice, and transported him to the nearest hospital, while working to save his life. The Tamir Rice incident occurred in Cleveland, Ohio.
6. On February 15, 2016, I exchanged a number of text messages with Plaintiff Jamie Marquardt ("Marquardt"). February 15, 2016 was the day I learned of the deplorable Facebook posts about Tamir Rice that were made to Marquardt's Facebook page. As part of my February 15, 2016 text message exchange with Marquardt, Marquardt claimed a "jerk of friend" made the Facebook posts. Via text messages, I twice asked that Marquardt provide a statement from this friend in which the friend takes responsibility for the Facebook posts. In response to my requests, Marquardt texted that the friend would not provide a statement. Also referring to this friend, Marquardt texted me that "[a]lthough the post was not criminal in any way, it was very insensitive and I do not want anyone attempting to kill him over this." On March 21, 2016, I emailed myself my text message exchange with Marquardt. A true and accurate copy of this March 21, 2016 email is attached as Exhibit A. Exhibit A is Exhibit 5 to Defendants' Memorandum of Law in Support of their Motion for Summary Judgment, which also was Exhibit 23 during Marquardt's deposition.
7. Deputy Commissioner David Miller reported the February 15, 2016 Facebook posts to me. Deputy Commissioner David Miller conveyed to me that he learned of the Facebook Posts from EMS Captains Michael Threat and Ellen Kazimer.
8. The City of Cleveland investigated the February 15, 2016 Facebook posts.

**EXHIBIT**

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9. The February 15, 2016 Facebook Posts made a mockery of both the City of Cleveland's mission statement and EMS's community pledge, which are as follows:

City of Cleveland Mission Statement

We are committed to improving the quality of life in the City of Cleveland by strengthening our neighborhoods, delivering superior services, embracing the diversity of our citizens, and making Cleveland a desirable, safe city in which to live, work, raise a family, shop, study, play, and grow old.

Cleveland EMS Pledge to our Community

We are committed to improving the quality of life in the City of Cleveland by maintaining the highest ethical and professional standards of prehospital care, treating our patients with dignity and respect, and caring for each patient as if they were a member of our own family.

10. The February 15, 2016 Facebook posts disrupted EMS's services, as demonstrated, in part, by the complaints submitted by Marquardt's subordinates, who feared for the safety of EMS personnel.
11. The potential for backlash against EMS for retaining a Captain who reveled in the tragic death of a child after a police-involved shooting was a clear concern.
12. EMS cannot employ a Captain who publically declared upset that he did not shoot a 12-year old City of Cleveland resident to death, who was happy over the child's death, and calls any group of City of Cleveland residents "little criminal fuckers" and "ghetto rats."
13. The City of Cleveland investigated Marquardt's Facebook post regarding the Freddie Gray protests in Baltimore, Maryland in which he stated, "Open fire in Baltimore. Gun all of them down. When did we start tolerating this behavior." The City did not discipline Marquardt for this Facebook post.
14. There was civil unrest throughout the City of Cleveland surrounding the Tamir Rice case. The February 15, 2016 posts on Marquardt's Facebook page had the clear potential to reignite that unrest.
15. The lawsuit filed by Marquardt aside, since I became Acting Commissioner of EMS in 2011, I am unaware of any First Amendment issues within EMS.
16. I have never been convicted of violating Cleveland Ord. 171.49, Cleveland Ord. 615.13, and Ohio Rev. Code § 2921.45. In fact, I have never been even so much as charged with a crime under any of these provisions or charged with a crime related in any way to Marquardt.

FURTHER DECLARANT SAYETH NAUGHT.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the

United States of America that the foregoing is true and correct.

Executed on February 27, 2019

A handwritten signature in black ink, appearing to read 'Nicole Carlton', written over a horizontal line.

NICOLE CARLTON

**Carlton, Nicole**

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**From:** Carlton, Nicole  
**Sent:** Monday, March 21, 2016 3:28 PM  
**To:** Carlton, Nicole  
**Subject:** Jamie Marquardt Text



Mon, Feb 15, 15:48 (from J Marquardt)

Before the word gets to you I have to tell you. A jerk of a friend grabbed my phone last night as I ran an errand and trying to be funny made some awful Facebook posts. My friends called me today to let me know and I was horrified when I read them. These are not my beliefs and I certainly did not write them. I posted an apology, but I feel the damage may already have been done. Again, I just want you to know I did not post what was written.

(from J Marquardt)

Did you get my text? I am very upset about this whole thing.

Mon, Feb 15, 18:03 (to J Marquardt)

It is obvious that you have regret over what was posted. In order to set the record straight, I am asking you to forward to me what was posted along with a letter from your friend who posted the statement taking responsibility for what happened. Your friend should identify themselves.

(from J Marquardt)

I actually deleted the post as soon as I saw it. Maybe someone else has it, but I removed any and all traces of it. I wanted nothing to do with it. I also posted an apology and explanation on social media sites. My texts were also hacked and people in my circle of friends were sent inappropriate messages. I am in the middle of damage control right now. This has made my life a living hell.

(to J Marquardt)

Is your friend able to send a letter; that would go a long way.

(from J Marquardt)

I will take care of him in my own way. No, he will not do that under any circumstances. Like I said, I will deal with him.

(from J Marquardt)

He is afraid it will end up on the news and he will be labled as a racist. Although the post was not criminal in any way, it was very insensitive and I do not want anyone attempting to kill him over this.

(from J Marquardt)

Let me be the first on record to have the balls to say Tamir Rice should have been shot and I am glad he is dead. I wish I was in the park that day as he terrorized innocent

patrons by pointing a gun at them walking around acting bad. I am upset I did not get the chance to kill the little criminal fucker.

(from J Marquardt)

That was the post..... I feel so bad right now.....

(from J Marquardt)

Do you now understand why I am so upset??

Wed, Mar 9, 19:54 (from J Marquardt)

I am so sorry channel 19 aired that story about you. It was stupid and really reaching. My girls respect you and I was able to sit them down tonight and explain to them that you did not do anything wrong. The news looks to bring down successful people. I let them know also that I am next. I let them know the details and they understand.

Thurs, Mar 17, 02:46 (from J Marquardt) You have done the worst thing anyone has ever done to me. My dear girls are going to suffer and have no clothes or food. There is no evidence I lied and you know it. Nothing I said was untruthful. I did not do this and you will never find proof I did because I have always been honest. They will have to leave their school. I am mad, but still will pray for you Nicole because that is what Jesus wants me to do.

Nicole A Carlton  
Acting Commissioner